

B110

#4

Fee Paid

GARY E. VAUGHN, JR.,)
 DBA - BODIES IN MOTION)
 Plaintiff)
)
 vs.)
)
 HOLLIDAYSBURG BOROUGH,)
 As a Government Agency)
 Defendant)
)
 ETHAN IMHOFF,)
 In his individual capacity)
 Defendant)
)
 JOSEPH R. DODSON,)
 In his individual capacity)
 Defendant)
)
 CHRISTOPHER STORM,)
 In his individual capacity)
 Defendant)
)
 SEAN M. BURKE,)
 In his individual capacity)
 Defendant)
)
 CLAY GINGRICH,)
 In his individual capacity)
 Defendant)
)
 BRADY LEAHEY,)
 In his individual capacity)
 Defendant)
)
 JEFFREY KETNER,)
 In his individual capacity)
 Defendant)

Case No: 3:25-cv-20

Jury Trial Requested

FILED

JAN 21 2025

CLERK U.S. DISTRICT COURT
WEST DIST OF PENNSYLVANIA

WALTER KALISTA,)
In his individual capacity)
Defendant)
)
WILLIAM KITT,)
In his individual capacity)
Defendant)
)
DAVID JACOBS,)
In his individual capacity)
Defendant)
)
ANDREW HOLODNIK,)
In his individual capacity)
Defendant)

**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS UNDER
TITLE 42 U.S. CODE §1983**

I. The parties to this complaint:

A. The Plaintiff:

Gary E. Vaughn, Jr., DBA Bodies in Motion
701 Farren Street
Portage, PA 15946
Cambria County
814-254-6542 (Cell)
gvaughn74@yahoo.com

B. The Defendants:

- 1. Hollidaysburg Borough – Government Agency**
401 Blair Street
Hollidaysburg, PA 16648
- 2. Ethan Imhoff – Individual Capacity**
401 Blair Street
Hollidaysburg, PA 16648

3. **Joseph R. Dodson - Individual Capacity**
401 Blair Street
Hollidaysburg, PA 16648
4. **Christopher Storm - Individual Capacity**
401 Blair Street
Hollidaysburg, PA 16648
5. **Sean M. Burke - Individual Capacity**
901 Walnut Street
Hollidaysburg, PA 16648
6. **Clay Gingrich – Individual Capacity**
213 Newry Street
Hollidaysburg, PA 16648
7. **Brady Leahy - Individual Capacity**
411 Spruce Street
Hollidaysburg, PA 16648
8. **Jeffrey Ketner - Individual Capacity**
1208 N. Juniata Street
Hollidaysburg, PA 16648
9. **Walter Kalista – Individual Capacity**
110 Quince Court
Hollidaysburg, PA 16648
10. **William Kitt - Individual Capacity**
625 Hawthorne Drive
Hollidaysburg, PA 16648
11. **David Jacobs - Individual Capacity**
204 Walnut Street
Hollidaysburg, PA 16648
12. **Andrew Holodnik - Individual Capacity**
423 Allegheny Street, Ste. 1
Hollidaysburg, PA 16648

II. Basis for Jurisdiction

Under Title 42 U.S. Code §1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [Federal laws].”

The twelve named defendants are violating First and Fourteenth Amendment rights to freedom of expression, by enacting and strictly enforcing an overbroad, discriminatory, and vague ordinance, which also violates the Equal Protection Clause.

Said ordinances discriminate against my sexually oriented business by not permitting its operation, while allowing, without restriction, similarly situated businesses engaged in similar freedoms of expression.

The Supreme Court has ruled that nude performance dancing is a form of expression that when restricted, requires First Amendment review.

III. Statement of Claim

The defendants named above include a Government agency (Hollidaysburg Borough), an elected Mayor of that agency, the appointed Manager of that agency, the Police chief of that agency, the appointed Codes Enforcement Officer, and seven elected Borough Council Members of that agency.

Each defendant acts under the color of a passed ordinance which requires sexually oriented businesses to operate in the I-2 district of the Borough by special exception and permit only. (See Exhibit A)

The ordinance, passed in 1997, located at Chapter 13, Part 4 of the Hollidaysburg Borough Code of Ordinances, completely prohibits sexually oriented businesses in all other zoning districts but specifies a list of facially overbroad, discriminatory and vague exemptions.

“§413. Exemptions.

It is a defense to prosecution under §§405 and 412 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation.

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing.

(2) Where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class.

(3) Where no more than one (1) nude model is on the premises at any one (1) time.”

Hollidaysburg Borough Code of Ordinances classifies a Nude Modeling Studio as a sexually oriented business and Plaintiff concedes that Bodies in Motion also fits the definition of a sexually oriented business.

By permitting one type, or any type of sexually oriented business to operate freely without restriction and prohibiting another similarly situated business from operating flies in the face of the United States Constitution and violates the Equal Protection Clause protections in the Fourteenth Amendment.

Ethan Imhoff, the appointed Borough Manager, is tasked with managing the day-to-day operations of the Agency and has failed to ensure that no ordinance violates the Constitution, even after notice was given.

Seven elected council members and the elected Mayor are also tasked with protecting their Ward constituents and all have failed to take corrective measures by motioning or passing resolutions to correct and repeal the violative ordinances

The appointed Police Chief and Code Enforcement Officer are both tasked with enforcement of all ordinances and neither have taken any steps to protect the First and Fourteenth Amendments, even after notice.

IV. Request for Relief

Wherefore, your Plaintiff, Gary E. Vaughn, Jr., DBA Bodies in Motion, respectfully requests and prays that this Honorable Court declare the Ordinances listed in this Complaint violative of the First and Fourteenth Amendments, deem the applicable

Ordinances unenforceable, award a declaratory judgment in favor of Plaintiff and award punitive damages in the amount of \$1,000,000 per defendant for a total of \$12,000,000.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or to needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's office may result in the dismissal of my case.

Executed this 22nd day of January, in the year of 2025

Plaintiff:

Gary E. Vaughn, Jr., DBA Bodies in Motion

Exhibit A

BOROUGH of HOLLIDAYSBURG
 Blair County, Pennsylvania
"OFFICIAL ZONING MAP"

LEGEND

- CR Conservation Recreation
- R-1 Single Family Residential
- R-2 General Residential
- R-3 General Residential
- PR Planned Residential
- RB Residential/Business
-  TND Traditional Neighborhood Development District
- HS Highland Hall Special District
- C-1 Professional/Business Services
- C-2 Community Business District
- C-3 Highway Commercial
- I-1 Limited Industrial
- I-2 General Industrial
-  Historic District

Last Amended JUNE 13, 2019

Blair County, Pennsylvania

"OFFICIAL ZONING MAP"

